

LATE TESTIMONY

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



LORETTA J. FUDDY, A.C.S.W., M.P.H.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

House of Representatives, Committee on Health

H.B. No. 1957, RELATING TO HEALTH CARE INFORMATION

Written Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.
Director of Health

January 23, 2012

1 **Department's Position:** Support with Amendment

2 **Fiscal Implications:** None.

3 **Purpose and Justification:** The Department supports this bill because it will serve to facilitate the
4 exchange of health information and simplify an often complex analysis of applicable state privacy laws.
5 The result will be improved patient care, reduced health care costs and enhanced quality of health care
6 operations without compromising privacy protections. We do propose one amendment to the bill for
7 clarification purposes.

8 The Department believes that this bill is in accord with the Health Insurance Portability and
9 Accountability Act of 1996 (HIPAA) and the Health Information Technology for Economic and Clinical
10 Health (HITECH) Act. These federal regulations promote a system to enhance the quality of patient
11 care while reducing instances of duplicative services and protecting patient privacy. This bill moves in
12 the direction set by both HIPAA and the HITECH Act.

13 This bill promotes sharing health information in a timely and safe manner while improving
14 patient care and outcomes, reducing health cost, and enhancing oversight of healthcare operations. It
15 also helps pave the way for the electronic maintenance and exchange of health information.

1 This bill also will serve to simplify what has become a complicated array of state laws and
2 regulations regarding health care privacy. Often, an involved preemption analysis must be conducted to
3 determine which privacy law is appropriate. While our staff is highly trained and capable, this
4 unnecessary complexity can lead to delays or the application of an incorrect law. This bill will eliminate
5 a significant layer of that complexity.

6 This bill only applies to entities that are already required to comply with HIPAA regulations.
7 HIPAA is the recognized standard in this area; therefore, appropriate protections will still be in place.
8 Furthermore, this bill specifically states that it does not apply to disclosures of health information
9 restricted by federal law or regulations. This means that federal regulations, such as those regarding
10 substance abuse treatment information, must still be followed.

11 The one amendment we recommend is the deletion of language that states “Any notification of
12 breach of unsecured protected health information that is provided in a complete and consistent manner
13 with HIPAA regulations regarding notification of breach of unsecured protected health information
14 under 45 C.F.R. Part 164, Subpart D, shall be deemed to be in compliance with all state laws and rules
15 governing notice of breach of protected health information”. The language stated above contradicts
16 other language in the bill that states, “Nothing in this chapter shall be construed to ... Limit or otherwise
17 affect any state law or rules requiring notification of other security or privacy breaches”.

18 There is a potential for misunderstanding that if an entity that falls under this bill complies with
19 HIPAA breach notification requirements, then that entity will be in compliance of all state breach
20 notification requirements as well. This may lead entities to believe that if there is a breach that triggers
21 both HIPAA and HRS Chapter 487N (“Security Breach of Personal Information”) requirements, that
22 complying with only the HIPAA requirements means they are fully compliant.

23 Thank you for the opportunity to provide testimony on this measure.



LATE TESTIMONY

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HAWAI'I PACIFIC HEALTH

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Tuesday – January 24, 2011 – 10:00am

Conference Room 329

The House Committee on Health

To: Representative Ryan I. Yamane, Chair
Representative Dee Morikawa, Vice Chair

From: David Fox
Information/Security Privacy Officer

Re: **HB 1957 RELATING TO HEALTH CARE INFORMATION - Testimony in Strong Support**

My name is David Fox, Information/Security Privacy Officer for Hawai'i Pacific Health (HPH). Hawai'i Pacific Health is a nonprofit health care system and the state's largest health care provider, committed to providing the highest quality medical care and service to the people of Hawai'i and the Pacific Region through its four affiliated hospitals, 49 outpatient clinics and more than 2,200 physicians and clinicians. The network is anchored by its four nonprofit hospitals: Kapi'olani Medical Center for Women & Children, Pali Momi Medical Center, Straub Clinic & Hospital and Wilcox Memorial Hospital.

We are writing in strong support of HB 1957 Relating to Health Care Information which clarifies that persons and entities governed by the Health Insurance Portability and Accountability Act (HIPAA) and who use or disclose individually identifiable health information that is consistent with the HIPAA shall be deemed in compliance with Hawai'i's privacy laws and rules.

The primary advantage of HB1957 is that it simplifies the process of protecting patient information for all health care providers and enables the timely and secured sharing of the information, thereby improving patient care and safety. The lack of existing conformance alignment between state and federal legislation often creates confusion in interpretation with the net impact of medical information not being optimally shared & compromising patient care. This bill simply "harmonizes" state regulations governing disclosure of medical records with federal legislation. By passing this bill, you will be taking a big step toward removing existing perceived barriers that could prevent medical providers from sharing the information and improving patient care.

We recognize that HIPAA and related federal schema are not perfect, yet HIPAA has done more to ensure the confidentiality of patient information across the full spectrum of the health care industry than any other combination of federal or state laws. Consistent with HIPAA, passage will not undermine existing Hawai'i statutes or Administrative Rules that are currently more stringent. For example, this bill will not change the disclosure restrictions related to HIV/AIDS reporting or preventing the disclosure of HIV results to insurers when a patient objects to the disclosure and actually pays for the related testing services or care.



Affiliates of Hawai'i Pacific Health

We ask that you pass this measure.



**HAWAII HEALTH
INFORMATION CORPORATION**
Hawaii's source of healthcare data

LATE TESTIMONY

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January 23, 2012

Rep. Ryan I Yamane, Chair
House Health Committee
Hawaii State Legislature
State Capitol
Honolulu, HI 96813

Chairman Yamane,

The Hawaii Health Information Corporation supports HB 1957 – RELATING TO HEALTH CARE INFORMATION. HB 1957 harmonizes existing Hawaii statutes relating to the privacy and sharing of health care records into conformance with federal HIPAA requirements, as amended by the American Recovery and Reinvestment Act. This is very important for two reasons.

First, the plethora of approximately fifty statutory references to privacy is difficult for providers to understand and use. Bringing all into conformance with HIPAA will provide providers with the ability to more easily comply with one set of standards. Second, a single set of HIPAA compliant statutes will facilitate the exchange of clinical information by providers through the Hawaii Health Information Exchange (HHIE). By allowing for clinical information to be exchanged easily, more information will be available to providers of care, improving the quality of care to the patient.

For these reasons, HHIC strongly supports HB 1957 and recommends its passage.

Sincerely,

Peter A. Sybinsky, Ph.D.
President & CEO

LATE TESTIMONY

National Alliance on Mental Illness (NAMI) Hawaii Executive Director: Kathleen Hasegawa

Testimony In Support of HB1957 Relating to Health Care Information

Committee on Health
Tuesday, January 24, 2012 10 a.m.
Conference Room 329

Representative Ryan Yamane, Chair
Representative Dee Morikawa, Vice Chair

Aloha Members of the House Committee on Health.

NAMI Hawaii is strongly in support of this bill. The National Alliance on Mental Illness Hawaii (NAMI Hawaii) a State Organization of the National Alliance on Mental Illness ("NAMI") and is dedicated to improving the quality of life of all whose lives are affected by mental illnesses through support, education, advocacy, and research. NAMI Hawaii is strongly in support of this bill.

Currently, restrictive laws, that were developed in Hawaii prior to the Federal HIPA laws, keep the State divisions, doctors and other important parties from being able to share information that is important to the treatment of people with severe mental illnesses. It is vital that the various entities be able to share relevant information. As it currently stands each agency has to start from the ground up, a process that is time consuming and often daunting.

Please pass bill HB 1957 Relating to Health Care Information.

Thank you.

Kathleen Hasegawa
Executive Director NAMI Hawaii
770 Kapiolani Blvd. Ste 613
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LATE TESTIMONY

Ellen K. Awai, MSCJA, BBA, CPRP, HCPS
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TO: Representative Ryan Yamane, Chair of the House Health Committee & Members
And the members of the Commerce and Consumer Protection & Judiciary Committees
Health Hearing on Tuesday, January 24, 2012, 10:00 a.m. in Room #329

SUBJECT: HB1957 relating to Healthcare Information – HIPAA Act - Please Support!

I am a mental health consumer advocate, a member of Senator Chun-Oakland's mental health and Medicaid task groups, and a former State Adult Mental Health Division employee with the Office of Consumer Affairs. I developed and coordinated the Hawaii Certified Peer Specialist program with over 130 certified peer specialists in the state, consumers with severe mental health issues, who are role models and provide hope of recovery for others in the community. I am also one of the few certified Psychiatric Rehabilitation Practitioners in the state through the U.S. Psychiatric Rehabilitation Association (USPRA). I understand the need for clarity for the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

Hawaii has over 50 laws governing this issue, which includes federal laws and regulations and is one of the strictest and probably the most confusing in the nation. The mental health task group working with the Attorney General's Office and the Hawaii Health Information Exchange is working on a senate companion bill created by Senators Josh Green and Suzanne Chun-Oakland that would clarify which of Hawaii's laws to appeal.

Last year, I also graduated with my masters in Criminal justice Administration from Chaminade University. When seeking or being directed to the appropriate services for their conditions, many people with mental health issues are also confronted with criminal issues and diverted into the more costly jail, court, and prison systems instead. Consumer advocates such as myself feel that it is the responsibility of providers to have access to the necessary documents needed for our treatment at any time, especially during times of emergencies.

Please support this bill along with any adjustments made with the senate bill on HIPAA!

Mahalo and Aloha!

Ellen K. Awai
Mental Health Advocate



HOUSE COMMITTEE ON HEALTH
Rep. Ryan Yamane, Chair

Conference Room 329
January 24, 2012 at 10:00 a.m.

Supporting HB 1957

The Healthcare Association of Hawaii advocates for its member organizations that span the entire spectrum of health care, including all acute care hospitals, as well as long term care facilities, home care agencies, and hospices. In their efforts to provide quality care to all of Hawaii's residents, our members employ over 40,000 people. Thank you for this opportunity to testify in support of HB 1957, which creates an effective regulatory structure for managing health care information.

The health care system is very complex, and much information is transmitted among the various organizations within the system. Patient confidentiality is of paramount importance, but information needs to flow through the system efficiently to ensure that care is provided on a timely basis, that payment is made for care, and that government entities responsible for monitoring health care receive the necessary information.

The federal Health Insurance Portability and Accountability Act (HIPAA) governs the transmission of individually identifiable health information between health care providers, insurers, and other organizations that depend on such information. The State also has regulations that govern the transmission of such information.

Unfortunately, State and federal regulations are not always aligned, and as such there can be confusion about the interpretation of the regulations. This confusion can result in medical information not being optimally shared among organizations.

This bill harmonizes state regulations governing the disclosure of medical information with federal legislation. Consistent with HIPAA, this bill does not undermine existing Hawaii statutes or Administrative Rules that are currently more stringent than the provisions of HIPAA.

Thank you for the opportunity to testify in support of HB 1957.

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Mental Health Advocate